

It is critical that the seller is shown as the consignor or shipper on the bill of lading for the interstate commerce exemption to apply. If the purchaser is shown as either the consignor or the shipper, the exemption will not apply. See 86 Ill. Adm. Code 130.605(c). (This is a GIL.)

January 11, 2005

Dear Xxxxx:

This letter is in response to your letter dated November 29, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I have enclosed copies of documentation on (4) four separate vehicles, which were purchased and shipped directly from the dealers' lot out of the country. We were charged Illinois State Sales Tax on each vehicle. We are requesting a legal letter ruling for reimbursement of all sales tax in full on all vehicles. All vehicles were repayment to individuals for loans made to the company. All of the vehicles were shipped directly from the dealership to these individuals. The vehicles were purchased by foreign alien individuals who are not U.S. citizens residing outside of the United States of America and who had made loans to our companies.

Enclosed you will find a copy of the ST-556 Sales Tax Transaction Return, Certificate of Title of Vehicle, Temporary Registration Plate, Bill of Lading and Dock Receipt for (1) one VEHICLE as listed below.

- 2003 VEHICLEE, VIN # purchased on DATE from COMPANY and shipped to COUNTRY on DATE.

Also enclosed is a copy of the ST-556 Sales Tax Transaction Return, Certificate of Title of Vehicle, Purchase Receipt, Shipping Order and Shippers Receipt Report on (3) three VEHICLES as listed below.

- 2004 VEHICLE, VIN #, purchased on DATE from COMPANY2 and shipped to COUNTRY on DATE.
- 2004 VEHICLE, VIN # purchased on DATE from COMPANY2 and shipped to COUNTRY on DATE.
- 2004 VEHICLE, VIN # purchased on DATE from COMPANY2 and shipped to COUNTRY on DATE.

Should you require any further information for ruling, please contact PERSON. Thank you in advance for your assistance in this matter.

DEPARTMENT'S RESPONSE:

The documentation submitted indicates that ABC and XYZ, both residents of Illinois, purchased the vehicles in question, not foreign alien individuals, as stated in your request.

The original ST-556 Sales Tax Transaction Return allows a purchaser to claim an exemption from sales tax for vehicles for the following reasons:

- A. Sold to an out-of-State buyer;
- B. Sold for resale;
- C. Sold to an exempt organization (government, school, religious, or charitable);
- D. Sold to an interstate carrier;
- E. Sold for rental use;
- F. The form is void;
- G. Other (describe).

In general, a claim for exemption from the sales tax is documented in Section 5 on the ST-556 Sales Tax Transaction Return. The documentation submitted with your request is void of information in Section 5 of the ST-556. In addition, the documentation submitted indicates that XYZ, or an agent of XYZ, was the sole consignor on the bill of lading. In general, a purchaser taking possession of an automobile, and then arranging for shipping, would constitute a use in Illinois, subject to Use Tax liability.

Section 130.605(c) states that Retailers' Occupation Tax is not incurred by the seller from sales in which the seller, by carrier, or by mail, under the terms of his agreement with the purchaser, delivers the goods from a point in this State to a point outside this State not to be returned to a point within this State. However, it is critical that the seller is shown as the consignor or shipper on the bill of lading. If the purchaser is shown as either the consignor or the shipper, the exemption will not apply. See 86 Ill. Adm. Code 130.605(c). Your documentation does not indicate that the retailer was the consignor on the bill of lading.

As previously explained in correspondence to you, claims for credit and refunds are available when a person shows that he paid tax to the Department as a result of a mistake of fact or law.

Only the remitter of the tax erroneously paid to the Department is authorized to obtain a refund. It is the retailer (in this instance, the car dealer) who remitted the tax to the Department and who is able to file a claim for a refund, although he is not required to. See 86 Ill. Adm. Code 130.1501.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk